

# *Exhibit A*

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

DANIEL NEAL,

Plaintiffs,

- against -

THE CITY OF NEW YORK, SEAGATE COURT  
HOMEOWNERS ASSOCIATION, INC., SEAGATE  
HOMEOWNERS ASSOCIATION, THE SEAGATE  
ASSOCIATION, and DARRIEN PHILLIPS,

Defendants.

-----X Index No.

Plaintiff designates  
Kings County as  
place of trial.

The basis of the  
venue is the  
location of occurrence.

S U M M O N S

Plaintiff resides at  
2750 West 33<sup>rd</sup> Street, #1548  
Brooklyn, NY 11224  
County of Kings

To the above named defendant(s):

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiffs' attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after service is complete if this summons is not personally delivered to you within the State of New York) and in case of your failure to appear or answer, judgement will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
November 20, 2018

SCHMELKIN ASSOCIATES, P.C.  
Attorneys for Plaintiff  
**DANIEL NEAL**  
Office & P.O. Address  
30 Vesey Street, 4th Floor  
New York, New York 10007  
(212) 227-8865

The City of New York, 100 Church Street, New York, NY 10007  
Seagate Court Homeowners Association, Inc., 1258 49<sup>th</sup> Street,  
Brooklyn, NY 11219  
Seagate Homeowners Association, 3700 Surf Avenue, Brooklyn, NY 11223  
The Seagate Association, 3700 Surf Avenue, Brooklyn, New York 11223  
Darrien Phillips, c/o 60<sup>th</sup> Pct, 2951 West 8<sup>th</sup> Street, Brooklyn, NY

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X Index No.  
DANIEL NEAL,

Plaintiff,

- against -

VERIFIED COMPLAINT

THE CITY OF NEW YORK, SEAGATE COURT  
HOMEOWNERS ASSOCIATION, INC., SEAGATE  
HOMEOWNERS ASSOCIATION, THE SEAGATE  
ASSOCIATION, and DARRIEN PHILLIPS,

Defendants.

-----X

Plaintiff, complaining of the defendants, by his  
attorneys, SCHMELKIN ASSOCIATES, P.C., hereby sets forth and  
alleges, upon information and belief, as follows:

PRELIMINARY STATEMENT

1. That, at all times hereinafter mentioned, and on  
November 30, 2017, the plaintiff, DANIEL NEAL, was and still is a  
resident of the County of Kings, City and State of New York.

2. That, at all times hereinafter mentioned, and on  
November 30, 2017, the defendant, THE CITY OF NEW YORK,  
(hereinafter referred to as "THE CITY") was and still is a  
domestic municipal corporation, duly organized and existing under  
and by virtue of the laws of the State of New York.

3. That, at all times hereinafter mentioned, and on  
November 30, 2017, defendant, DARRIEN PHILLIPS, (hereinafter  
referred to as "PHILLIPS"), was and still is a resident of the

City and State of New York.

4. That, the plaintiff, DANIEL NEAL, has complied with all the conditions precedent to the commencement of the within action against the defendant, THE CITY; plaintiff's Notice of Claim was served on February 13, 2018 within ninety (90) days of the date that the within cause of action having been caused to accrue; that thirty (30) days have elapsed and the claim remains unpaid and unadjusted; that, the plaintiff, DANIEL NEAL, testified at an oral examination pursuant to the General Municipal Law on April 24, 2018; and, that this action is being commenced herewith within one (1) year and ninety (90) days of the date that the within cause of action having been caused to accrue.

5. That, at all times hereinafter mentioned, and on November 30, 2017, the defendant, SEAGATE COURT HOMEOWNERS ASSOCIATION, INC., (hereinafter referred to as "SEAGATE"), was and still is a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

6. That, at all times hereinafter mentioned, and on November 30, 2017, the defendant SEAGATE, was and still is a foreign corporation transacting business within the State of New York.

7. That, at all times hereinafter mentioned, and on November 30, 2017, the defendant, THE SEAGATE HOMEOWNERS ASSOCIATION (hereinafter referred to as "HOMEOWNERS"), was and still is a domestic corporation duly organized and existing under

and by virtue of he laws of the State of New York.

8. That, at all times hereinafter mentioned, and on November 30, 2017, the defendant **HOMEOWNERS** was and still is a domestic business entity, transacting business within the State of New York.

9. That, at all times hereinafter mentioned, and on November 30, 2017, the defendant, **THE SEAGATE ASSOCIATION** (hereinafter referred to as "**ASSOCIATION**"), was and still is a domestic corporation duly organized and existing under and by virtue of he laws of the State of New York.

10. That, at all times hereinafter mentioned, and on November 30, 2017, the defendant **ASSOCIATION** was and still is a domestic business entity, transacting business within the State of New York.

11. That at all times hereinafter mentioned and on November 30, 2017, the plaintiff, **DANIEL NEAL** was, in the vicinity of 5017 Surf Avenue, in the County of Kings, City and State of New York.

12. That, he was given permission remove his possessions from the aforementioned premises.

13. That he obtained a dolly and utilized same to remove his possessions.

14. That police officers, and/or other agents, servants, and/or employees of the defendant and/or defendants had approached the plaintiff, **DANIEL NEAL**, and began to interrogate

him without probable cause.

15. That, the plaintiff, DANIEL NEAL, was thereafter arrested by the defendant and/or defendants, their agents, servants, and/or employees and a police officer, and his personal items were confiscated.

16. That, the plaintiff, DANIEL NEAL, was taken by the defendant, and/or defendants, and their agents servants, and/or employees, to the Seagate Precinct, whereby he was held against his will and arrested.

17. That, he remained in handcuffs and cuffed to the wall by the defendant, and/or defendants, their agents, servants, and employees.

18. That he was thereafter taken to the 60<sup>th</sup> Precinct whereby he remained under the custody and against his will by the defendant and/or defendants, their agents, servants, and employees.

19. That he was thereafter removed to Central Booking by the defendant and/or defendants, their agents, servants, and employees, and remained there for a long period of time.

20. That the plaintiff, DANIEL NEAL, was seen by a judge, and thereafter released.

21. That the plaintiff, DANIEL NEAL, was forced to appear in Court, whereby the charges were adjourned in contemplation of dismissal.

AS AND FOR A FIRST CAUSE OF ACTION

22. That, the plaintiff, DANIEL NEAL, repeats, reiterates, and realleges, each and every allegation as set forth in paragraphs 1 through 21 with the same force and effect as if hereinafter more fully set forth at length herein.

23. That, on November 30, 2017, the plaintiff, DANIEL NEAL, was assaulted/battered by the defendant, and/or defendants by and through their agents, servants and/or employees.

24. That, the plaintiff, DANIEL NEAL, was assaulted/battered without justification and without cause and without excuse.

25. That, the assault/battery took place on premises known as 5017 Surf Avenue, Brooklyn, in the County of Kings, City and State of New York, and other locations wherein the plaintiff, DANIEL NEAL, was held against his will by the defendant and/or defendants, their agents, servants and/or employees.

26. That, at all times hereinafter mentioned and on November 30, 2017, and for sometime prior thereto, defendant, PHILLIPS, was a New York City police officer, and/or agent servant and/or employee of the defendant, THE CITY, working in the scope and course of his employment as a New York City Police Officer, and was employed by the defendant, THE CITY.

27. That, at all times hereinafter mentioned and on November 30, 2017, and for sometime prior thereto, defendant, PHILLIPS, was a police officer, and/or agent servant and/or employee

of the defendant, and/or defendants working in the scope and course of his employment as a police officer.

28. That, the aforementioned assault and battery of the plaintiff, DANIEL NEAL, was carried out by police officers and/or other servants, agents and/or employees of the defendant, and/or defendants, while working within the scope and course of the employment with the defendant, THE CITY.

29. That, the aforementioned assault and battery of the plaintiff, DANIEL NEAL, was carried out by police officers and/or other servants, agents and/or employees of the defendant, SEAGATE, and/or the defendant, and/or defendants, while working within the scope and course of their employment.

30. That, the aforementioned assault and battery of the plaintiff, DANIEL NEAL, was carried out by police officers and/or other servants, agents and/or employees of the defendant, HOMEOWNERS, and/or the defendant, and/or defendants, while working within the scope and course of their employment.

31. That, the aforementioned assault and battery of the plaintiff, DANIEL NEAL, was carried out by police officers and/or other servants, agents and/or employees of the defendant, ASSOCIATION, and/or the defendant, and/or defendants, while working within the scope and course of their employment.

32. That, by reason of the foregoing, the plaintiff, DANIEL NEAL, was injured; was rendered sick, sore, lame and disabled; was and/or will be caused to undergo medical treatment and

advice; was unable to pursue his usual and regular activities; and, upon information and belief, his injuries are permanent in nature and effect.

33. That this action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving intentional actions, as well as the defendant, and/or defendants, having acted in reckless disregard for the safety of others, as well as having performed intentional acts.

34. That, by reason of the foregoing, the plaintiff, DANIEL NEAL, has sustained damages in an amount in excess of the jurisdictional limits of all the lower Courts of the State of New York.

AS AND FOR A SECOND CAUSE OF ACTION

35. That, the plaintiff, DANIEL NEAL, repeats, reiterates, and realleges, each and every allegation as set forth in paragraphs 1 through 34 with the same force and effect as if hereinafter more fully set forth at length herein.

36. That, all of the aforementioned acts, committed by police officers, servants, and/or other employees of the defendant, THE CITY, were committed due to the negligence, recklessness and carelessness of the aforementioned police officers, agents, servants and/or other employees of the defendant, THE CITY.

37. That, all of the aforementioned acts, committed by police officers, servants, and/or other employees of the defendant, and/or defendants, were committed due to the negligence, recklessness and carelessness of the aforementioned police

officers, agents, servants and/or other employees of the defendant, SEAGATE, and/or defendant, and/or defendants.

38. That, all of the aforementioned acts, committed by police officers, servants, and/or other employees of the defendant, and/or defendants, were committed due to the negligence, recklessness and carelessness of the aforementioned police officers, agents, servants and/or other employees of the defendant, HOMEOWNERS, and/or defendant, and/or defendants.

39. That, all of the aforementioned acts, committed by police officers, servants, and/or other employees of the defendant, and/or defendants, were committed due to the negligence, recklessness and carelessness of the aforementioned police officers, agents, servants and/or other employees of the defendant, ASSOCIATION, and/or defendant, and/or defendants.

40. That the defendant, THE CITY, was additionally negligent, reckless and careless in the negligent hiring, negligent retention, and negligent training of various police officers, agents, servants and/or other employees, who were employed by the defendant, and/or defendants.

41. That the defendant, and/or defendants, was additionally negligent, reckless and careless in the negligent hiring, negligent retention, and negligent training of various police officers, agents, servants and/or other employees, who were employed by the defendant, SEAGATE, and/or the defendant and/or defendants.

42. That the defendant, and/or defendants, was additionally negligent, reckless and careless in the negligent hiring, negligent retention, and negligent training of various police officers, agents, servants and/or other employees, who were employed by the defendant, **HOMEOWNERS**, and/or the defendant and/or defendants.

43. That the defendant, and/or defendants, was additionally negligent, reckless and careless in the negligent hiring, negligent retention, and negligent training of various police officers, agents, servants and/or other employees, who were employed by the defendant, **ASSOCIATION**, and/or the defendant and/or defendants.

44. That, all of the aforementioned acts, committed by the police officers, agents, servants and/or other employees of the defendant, **PHILLIPS**, were committed due to the negligence, recklessness and carelessness of the aforementioned police officers, agents, servants and/or employees of the defendant, **THE CITY**.

45. That, all of the aforementioned acts, committed by the police officers, agents, servants and/or other employees of the defendant, and/or defendants, were committed due to the negligence, recklessness and carelessness of the aforementioned police officers, agents, servants and/or employees of the defendant, **SEAGATE**, and/or the defendant, and/or defendants.

46. That, all of the aforementioned acts, committed by the police officers, agents, servants and/or other employees of

the defendant, and/or defendants, were committed due to the negligence, recklessness and carelessness of the aforementioned police officers, agents, servants and/or employees of the defendant, **HOMEOWNERS**, and/or the defendant, and/or defendants.

47. That, all of the aforementioned acts, committed by the police officers, agents, servants and/or other employees of the defendant, and/or defendants, were committed due to the negligence, recklessness and carelessness of the aforementioned police officers, agents, servants and/or employees of the defendant, **ASSOCIATION**, and/or the defendant, and/or defendants.

48. That, the defendant, **THE CITY**, was additionally negligent, reckless and careless in the negligent hiring, negligent retention, and negligent training of various police officers, agents, servants, and/or other employees, including, but not limited to defendant, **PHILLIPS**, who was employed by the defendant, **THE CITY**.

49. That, the defendant, and/or defendants, was additionally negligent, reckless and careless in the negligent hiring, negligent retention, and negligent training of various police officers, agents, servants, and/or other employees, including, but not limited to defendant, **PHILLIPS**, who was employed by the defendant, **SEAGATE**, and/or the defendant, and/or defendants.

50. That, the defendant, and/or defendants, was additionally negligent, reckless and careless in the negligent

hiring, negligent retention, and negligent training of various police officers, agents, servants, and/or other employees, including, but not limited to defendant, PHILLIPS, who was employed by the defendant, HOMEOWNERS, and/or the defendant, and/or defendants.

51. That, the defendant, and/or defendants, was additionally negligent, reckless and careless in the negligent hiring; negligent retention, and negligent training of various police officers, agents, servants, and/or other employees, including, but not limited to defendant, PHILLIPS, who was employed by the defendant, ASSOCIATION, and/or the defendant, and/or defendants.

52. That, by reason of the foregoing, the plaintiff, DANIEL NEAL, was injured; was rendered sick, sore, lame and disabled; was and/or will be caused to undergo medical treatment and advice; was unable to pursue his usual and regular activities; and, upon information and belief, his injuries are permanent in nature and effect.

53. That this action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving the defendant and/or defendants, having acted in reckless disregard for the safety of others, as well as having performed intentional acts.

54. That, by reason of the foregoing, the plaintiff, DANIEL NEAL, has sustained damages in an amount in excess of the

jurisdictional limits of all the lower Courts of the State of New York.

AS AND FOR A THIRD CAUSE OF ACTION

55. That the plaintiff, DANIEL NEAL, repeats, reiterates, and realleges, each and every allegation as set forth in paragraphs 1 through 54 with the same force and effect as if hereinafter more fully set forth at length herein.

56. That, on November 30, 2017, the plaintiff, DANIEL NEAL, was caused to be falsely arrested and falsely imprisoned without probable cause.

57. That, the plaintiff, DANIEL NEAL, was arrested without an arrest warrant.

58. That, the false arrest/false imprisonment took place on premises known as 5017 Surf Avenue, Brooklyn, in the County of Kings, City and State of New York, and other locations and wherein the plaintiff, DANIEL NEAL was held against his will by the defendant and/or defendants, their agents, servants and/or employees.

59. That, the aforementioned false arrest and false imprisonment of the plaintiff, DANIEL NEAL, was carried out by police officers and/or other servants, agents and/or employees of the defendant, THE CITY.

60. That, the aforementioned false arrest and false imprisonment of the plaintiff, DANIEL NEAL, was carried out by

police officers and/or other servants, agents and/or employees of the defendant, SEAGATE, and/or the defendant, and/or defendants.

61. That, the aforementioned false arrest and false imprisonment of the plaintiff, DANIEL NEAL, was carried out by police officers and/or other servants, agents and/or employees of the defendant, HOMEOWNERS, and/or the defendant, and/or defendants.

62. That, the aforementioned false arrest and false imprisonment of the plaintiff, DANIEL NEAL, was carried out by police officers and/or other servants, agents and/or employees of the defendant, ASSOCIATION, and/or the defendant, and/or defendants.

63. That, the aforementioned false arrest and false imprisonment of the plaintiff, DANIEL NEAL, was carried out by defendant, PHILLIPS, and/or other servants, agents and/or employees of the defendant, THE CITY, while working within the scope and course of the employment with the defendant, THE CITY.

64. That, the aforementioned false arrest and false imprisonment of the plaintiff, DANIEL NEAL, was carried out by defendant, PHILLIPS, and/or other servants, agents and/or employees of the defendant, and/or defendants, while working within the scope and course of the employment with the defendant, SEAGATE, and/or the defendant, and/or defendants.

65. That, the aforementioned false arrest and false

imprisonment of the plaintiff, DANIEL NEAL, was carried out by defendant, PHILLIPS, and/or other servants, agents and/or employees of the defendant, and/or defendants, while working within the scope and course of the employment with the defendant, HOMEOWNERS, and/or the defendant, and/or defendants.

66. That, the aforementioned false arrest and false imprisonment of the plaintiff, DANIEL NEAL, was carried out by defendant, PHILLIPS, and/or other servants, agents and/or employees of the defendant, and/or defendants, while working within the scope and course of the employment with the defendant, ASSOCIATION, and/or the defendant, and/or defendants.

67. That, by reason of the foregoing, the plaintiff, DANIEL NEAL, was injured; was rendered sick, sore, lame and disabled; was and/or will be caused to undergo medical treatment and advice; was unable to pursue his usual and regular activities; and, upon information and belief, his injuries are permanent in nature and effect.

68. That this action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving intentional actions as well as the defendant and/or defendants, having acted in reckless disregard for the safety of others, as well as having performed intentional acts.

69. That, by reason of the foregoing, the plaintiff, DANIEL NEAL, has sustained damages in an amount in excess of the jurisdictional limits of all the lower Courts of the State of New York.

AS AND FOR A FOURTH CAUSE OF ACTION

70. The plaintiff, DANIEL NEAL, repeats, reiterates, and realleges, each and every allegation as set forth in paragraphs 1 through 69, with the same force and effect as if hereinafter more fully set forth at length herein.

71. That the plaintiff, DANIEL NEAL, did not commit any illegal act, nor did the individually named defendant have reason to believe he committed an unlawful act, either before or at the time he was falsely arrested and imprisoned, assaulted and battered, excessive force was used against him; and deprived his of his constitutional rights pursuant to the Fourth, Fifth and Fourteenth Amendments as set forth in the Constitution of the United States, particularly 42 U.S.C. §1983 and the Constitution of the State of New York.

72. That at all times hereinafter mentioned, the defendant, PHILLIPS, was employed in his respective capacity by the defendant, THE CITY and was acting under the color of his official capacity and his acts were performed under the color of the policies, statutes, ordinances, rules and regulations of the defendant, THE CITY.

73. That at all times hereinafter mentioned, the defendant, PHILLIPS, was employed in his respective capacity by the defendant, and/or defendants and was acting under the color of his official capacity and his acts were performed under the color of the policies, statutes, ordinances, rules and regulations of the defendant, and/or defendants.

74. Defendant, PHILLIPS, is being sued in his personal and official capacities for violation of plaintiff's constitutional rights pursuant to 42 USC, §1983. Although defendants knew or should have known of the fact that this pattern of conduct was carried out by their agents, servants and/or employees, the defendant, THE CITY has not taken any steps or made any efforts to halt this course of conduct, to make redress to the plaintiff, DANIEL NEAL, or other citizens injured thereby, or to take any disciplinary action whatever against any of their employees or agents.

75. Defendant, PHILLIPS, is being sued in his personal and official capacities for violation of plaintiff's constitutional rights pursuant to 42 USC, §1983. Although defendant and/or defendants knew or should have known of the fact that this pattern of conduct was carried out by their agents, servants and/or employees, the defendant, and/or defendants has not taken any steps or made any efforts to halt this course of conduct, to make redress to the plaintiff, DANIEL NEAL, or other citizens injured thereby, or to take any disciplinary action whatever against any of their employees or agents.

76. The unlawful and illegal conduct of the defendants, their agents, servants and/or employees and each of them, deprived plaintiff, DANIEL NEAL, of the following rights, privileges and immunities secured to his by the Constitution of the United States and of the State of New York: The right of plaintiff, DANIEL NEAL, to be secure in his person and effects against unreasonable

search and seizure under the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States; the right of plaintiff, DANIEL NEAL, to be informed of the nature and cause of the accusation against him as secured to him under the Sixth and Fourteenth Amendments to the Constitution of the United States; and the right of plaintiff, DANIEL NEAL, not to be deprived of life, liberty or property without due process of law, and the right to the equal protection of the laws secured by the Fourteenth Amendment to the Constitution of the United States.

77. That the deprivation of plaintiff's Constitutional rights was the result of the unconstitutional acts of defendant, PHILLIPS, while acting under color of state law and within the scope of his employ.

78. That the deprivation of plaintiff's Constitutional rights was the result of the defendant, THE CITY's custom and/or policy of arresting individuals without probable cause.

79. That the deprivation of plaintiff's Constitutional rights was the result of the defendant, and/or defendants' custom and/or policy of arresting individuals without probable cause.

80. That the deprivation of plaintiff's Constitutional rights was the result of the defendant, THE CITY's custom and/or policy of arresting minorities without probable cause.

81. That the deprivation of plaintiff's Constitutional rights was the result of the defendant, and/or defendants' custom and/or policy of arresting minorities without probable cause.

82. That the deprivation of plaintiff, DANIEL NEAL Constitutional Rights was the result of the defendant, THE CITY's custom and/or policy of failing to discipline officers for arresting individuals without probable cause.

83. That the deprivation of plaintiff, DANIEL NEAL Constitutional Rights was the result of the defendant, and/or defendants' custom and/or policy of failing to discipline officers for arresting individuals without probable cause.

84. That the said customs and/or policies may be inferred from the existence of other similar Civil Rights actions that have been brought against the defendant, THE CITY.

85. That the said customs and/or policies may be inferred from the existence of other similar Civil Rights actions that have been brought against the defendant, and/or defendants

86. That the detaining of plaintiff, DANIEL NEAL without probable cause or justification was the result of customs and/or policies adopted by the defendant, THE CITY.

87. That the detaining of plaintiff, DANIEL NEAL without probable cause or justification was the result of customs and/or policies adopted by the defendant, and/or defendants.

88. That the deprivation of plaintiff, DANIEL NEAL's Constitutional Rights was the result of the defendant, PHILLIPS's arrest of the plaintiff DANIEL NEAL without probable cause.

89. That the deprivation of plaintiff, DANIEL NEAL's Constitutional Rights was a result of the defendant, THE

CITY's custom and policy in failing to discipline officers for the use of excessive force.

90. That the deprivation of plaintiff, DANIEL NEAL's Constitutional Rights was a result of the defendant, and/or defendants' custom and policy in failing to discipline officers for the use of excessive force.

91. That the customs and/or policies adopted by the defendant, THE CITY exhibited a deliberate indifference to the Constitutional rights of plaintiff, DANIEL NEAL.

92. That the customs and/or policies adopted by the defendant, and/or defendants exhibited a deliberate indifference to the Constitutional rights of plaintiff, DANIEL NEAL.

93. That by reason of the allegations as set forth in all of the aforementioned causes of actions, including, but not limited to the plaintiff's false arrest, false imprisonment, assault and battery, the negligence of the defendant and/or defendants, in the negligent hiring, negligent retention, and negligent training of its various employees and/or police officers, the plaintiff, DANIEL NEAL was caused to have his civil rights as guaranteed under the U.S. Constitution, including, but not limited to the Fourth, Fifth and Fourteenth Amendments, violated by the defendant and/or defendants herein, as set forth under 42 U.S.C. Section 1983.

94. That, by reason of the foregoing, the plaintiff DANIEL NEAL was injured; was rendered sick, sore, lame and

ATTORNEY'S VERIFICATION

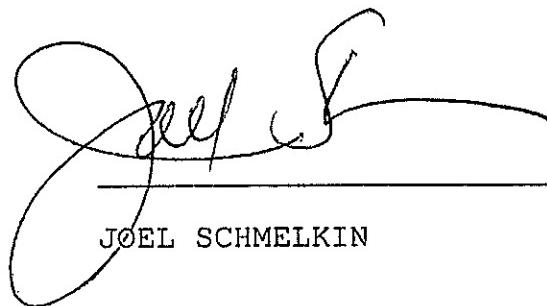
STATE OF NEW YORK )  
                      )  
                      ) ss.:  
COUNTY OF NEW YORK )

JOEL SCHMELKIN, an attorney admitted to practice law in the State of New York, states, the following:

I am associated with the law firm of Schmelkin Associates, P.C., the attorneys of record for the plaintiffs in the within action. I have read the foregoing COMPLAINT and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief and that as to those matters, I believe it to be true. This verification is made by me and not by the plaintiffs because the plaintiffs do not reside in the County where Schmelkin Associates, P.C. maintains its office.

The grounds of my belief as to all matters not stated upon my knowledge are conversations with plaintiffs and contents of the file maintained by Schmelkin Associates, P.C.

Dated: New York, New York  
November 20, 2018



JOEL SCHMELKIN

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

DANIEL NEAL,

Plaintiff,

-against-

THE CITY OF NEW YORK, SEAGATE COURT HOMEOWNERS ASSOCIATION, INC.,  
SEAGATE HOMEOWNERS ASSOCIATION, THE SEAGATE ASSOCIATION,  
and DARRIEN PHILLIPS,

Defendants.

## SUMMONS AND VERIFIED COMPLAINT

SCHMELKIN ASSOCIATES, P.C.

Attorneys for Plaintiff(s)

Daniel Neal

Office and Post Office Address, Telephone

30 VESEY STREET, 4TH FLOOR

NEW YORK, N.Y. 10007

TEL: (212) 227-8865

Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated: November 20, 2018

Signature .....

Print Signer's Name..... JOEL SCHMELKIN .....

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for .....

## PLEASE TAKE NOTICE

Check Applicable Box

that the within is a (certified) true copy of a  
entered in the office of the clerk of the within-named Court on

20

NOTICE OF  
ENTRY

that an Order of which the within is a true copy will be presented for settlement to the  
Hon. \_\_\_\_\_, one of the judges of the within-named Court,  
at \_\_\_\_\_  
on \_\_\_\_\_

20 , at M.

Dated:

SCHMELKIN ASSOCIATES, P.C.

Attorneys for Plaintiff(s)

To:

Office and Post Office Address, Telephone  
30 VESEY STREET, 4TH FLOOR  
NEW YORK, N.Y. 10007

# *Exhibit B*

Job #: 169091

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

Attorney: SCHMELKIN ASSOCIATES, P.C. PH: (212) 227-8865  
Address: 30 VESEY STREET NEW YORK, NEW YORK 10007

DANIEL NEAL,	Index Number: 523414/18
vs	Plaintiff
THE CITY OF NEW YORK., ETAL.,	Defendant
	Court Date:

STATE OF NEW YORK, COUNTY OF NEW YORK, SS.:  
SCHADRAC LAGUERRE, being sworn says:

AFFIDAVIT OF SERVICE

Deponent is not a party herein; is over the age of 18 years and resides in the State of New York.

On 12/15/2018, at 1:53 PM at: 1258 49th STREET, BROOKLYN, NY 11219 Deponent served the within Notice of Commencement of Action Subject to Mandatory Electronic Filing, Summons and Verified Complaint

On: SEAGATE COURT HOMEOWNERS ASSOCIATION, INC., therein named.

- #1 INDIVIDUAL  
By delivering a true copy of each to said recipient personally; Deponent knew the person so served to be the person described in as said recipient therein.
- #2 SUITABLE AGE PERSON  
By delivering therat a true copy of each to (Managing Agent) a person of suitable age and discretion. Said premises is recipient's: [] actual place of business / employment [] dwelling house (usual place of abode) within the state.
- #3 AFFIXING TO DOOR  
By affixing a true copy of each to the door of said premises which is defendants  
[] actual place of business / employment [] dwelling house (usual place of abode) within the state. Deponent was unable with due diligence to find defendant or person of suitable age and discretion therat having called there
- #4 Corporation or Partnership or Trust or LLC  
By delivering therat a true copy of each to Refused name personally. Deponent knew said corporation/partnership/trust/LLC so served to be the corporation/partnership/trust/LLC described in said aforementioned document as said defendant and knew said individual to be Managing Agent thereof.
- #5 MAILING  
On , deponent enclosed a copy of same in a postpaid envelope properly addressed to defendant at defendant's last known [] Actual Place of Residence [X] Actual Place of Business, and deposited the envelope in an official depository, personally or via agency, under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "personal and confidential" and did not indicate on the outside, thereof by return address or otherwise that the communication was from an attorney or concerned an action against the defendant.

#6 DESCRIPTION

Sex: Male      Color of skin: White      Color of hair: Black      Glasses:  
Age: 36-50      Height: 5ft 9in - 6ft 0in      Weight: 161-200 Lbs.      Other Features:

#7 MILITARY SERVICE

I asked the person spoken to whether defendant was in active military service of the United States or the State of New York in any capacity whatever and received a negative reply. The source of my information and the grounds of my belief are the conversations and observations above narrated.

#8 WITNESS FEES

Subpoena Fee Tendered in the amount of

#9 OTHER

Sworn to before me on 12/17/2018

JAY BRODSKY  
Notary Public State of New York  
No. 31-4683271  
Qualified in New York County  
Commission Expires Feb. 2, 2019

ABC Process Serving Bureau Inc., 225 Broadway, Suite 2950, New York, NY 10007

SCHADRAC LAGUERRE  
2026080-PCA

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

Job #: 169092

Attorney: SCHMELKIN ASSOCIATES, P.C. PH: (212) 227-8865  
Address: 30 VESSEY STREET NEW YORK, NEW YORK 10007

DANIEL NEAL,	Index Number: 523414/18
vs	Plaintiff
THE CITY OF NEW YORK., ETAL.,	Defendant
	Court Date:

STATE OF NEW YORK, COUNTY OF NEW YORK, SS.:  
SCHADRAC LAGUERRE, being sworn says:

AFFIDAVIT OF SERVICE

Deponent is not a party herein; is over the age of 18 years and resides in the State of New York.

On 12/15/2018, at 3:33 PM at: 3700 SURF AVENUE, BROOKLYN, NY 11223 Deponent served the within Notice of Commencement of Action Subject to Mandatory Electronic Filing, Summons and Verified Complaint

On: SEAGATE HOMEOWNERS ASSOCIATION, therein named.

- #1 INDIVIDUAL  
By delivering a true copy of each to said recipient personally; Deponent knew the person so served to be the person described in as said recipient therein.
- #2 SUITABLE AGE PERSON  
By delivering therat a true copy of each to (Agent For Service Of Process) a person of suitable age and discretion. Said premises is recipient's:[] actual place of business / employment [] dwelling house (usual place of abode) within the state.
- #3 AFFIXING TO DOOR  
By affixing a true copy of each to the door of said premises which ls defendants  
[] actual place of business / employment [] dwelling house (usual place of abode) within the state. Deponent was unable with due diligence to find defendant or person of suitable age and discretion therat having called there
- #4 Corporation or Partnership or Trust or LLC  
By delivering therat a true copy of each to Refused name personally. Deponent knew said corporation/partnership/trust/LLC so served to be the corporation/partnership/trust/LLC described in said aforementioned document as said defendant and knew said individual to be Agent For Service Of Process thereof.
- #5 MAILING  
On , deponent enclosed a copy of same in a postpaid envelope properly addressed to defendant at defendant's last known [] Actual Place of Residence [X] Actual Place of Business, and deposited the envelope in an official depository, personally or via agency, under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "personal and confidential" and did not indicate on the outside, thereof by return address or otherwise that the communication was from an attorney or concerned an action against the defendant.
- #6 DESCRIPTION  
Sex: Male Color of skin: White Color of hair: Black Glasses:  
Age: 36-50 Height: 5ft 9in - 6ft 0in Weight: 161-200 Lbs. Other Features:
- #7 MILITARY SERVICE  
I asked the person spoken to whether defendant was in active military service of the United States or the State of New York in any capacity whatever and received a negative reply. The source of my information and the grounds of my belief are the conversations and observations above narrated.
- #8 WITNESS FEES  
Subpoena Fee Tendered in the amount of
- #9 OTHER

Sworn to before me on 12/17/2018

JAY BRODSKY  
Notary Public State of New York  
No. 31-4683271  
Qualified in New York County  
Commission Expires Feb. 2, 2019

ABC Process Serving Bureau Inc., 225 Broadway, Suite 2950, New York, NY 10007

SCHADRAC LAGUERRE  
2035030-DCA

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

Job #: 169093

Attorney: SCHMELKIN ASSOCIATES, P.C. PH: (212) 227-8865  
Address: 30 VESEY STREET NEW YORK, NEW YORK 10007

DANIEL NEAL,	<i>Plaintiff</i>	Index Number: 523414/18
vs		Date Filed: 11/20/2018
THE CITY OF NEW YORK., ETAL.,	<i>Defendant</i>	Client's File No.: Court Date:

STATE OF NEW YORK, COUNTY OF NEW YORK, SS.:  
SCHADRAC LAGUERRE, being sworn says:

AFFIDAVIT OF SERVICE

Deponent is not a party herein; is over the age of 18 years and resides in the State of New York.

On 12/15/2018, at 3:33 PM at: 3700 SURF AVENUE, BROOKLYN, NY 11223 Deponent served the within Notice of Commencement of Action Subject to Mandatory Electronic Filing, Summons and Verified Complaint

On: THE SEAGATE ASSOCIATION, therein named.

- #1 INDIVIDUAL  
By delivering a true copy of each to said recipient personally; Deponent knew the person so served to be the person described in as said recipient therein.
- #2 SUITABLE AGE PERSON  
By delivering therat a true copy of each to (Agent For Service Of Process) a person of suitable age and discretion. Said premises is recipient's: [] actual place of business / employment [] dwelling house (usual place of abode) within the state.
- #3 AFFIXING TO DOOR  
By affixing a true copy of each to the door of said premises which is defendants  
[] actual place of business / employment [] dwelling house (usual place of abode) within the state. Deponent was unable with due diligence to find defendant or person of suitable age and discretion therat having called there
- #4 Corporation or Partnership or Trust or LLC  
By delivering therat a true copy of each to Refused name personally. Deponent knew said corporation/partnership/trust/LLC so served to be the corporation/partnership/trust/LLC described in said aforementioned document as said defendant and knew said individual to be Agent For Service Of Process thereof.
- #5 MAILING  
On , deponent enclosed a copy of same in a postpaid envelope properly addressed to defendant at defendant's last known [] Actual Place of Residence [X] Actual Place of Business, and deposited the envelope in an official depository, personally or via agency, under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "personal and confidential" and did not indicate on the outside, thereof by return address or otherwise that the communication was from an attorney or concerned an action against the defendant.

#6 DESCRIPTION

Sex: Male      Color of skin: White      Color of hair: Black      Glasses:  
Age: 36-50      Height: 5ft 9in - 6ft 0in      Weight: 161-200 Lbs.      Other Features:

#7 MILITARY SERVICE

I asked the person spoken to whether defendant was in active military service of the United States or the State of New York in any capacity whatever and received a negative reply. The source of my information and the grounds of my belief are the conversations and observations above narrated.

#8 WITNESS FEES

Subpoena Fee Tendered in the amount of

#9 OTHER

Sworn to before me on 12/17/2018

JAY BRODSKY  
Notary Public State of New York  
No. 31-4683271

Qualified in New York County  
Commission Expires Feb. 2, 2019

ABC Process Serving Bureau Inc., 225 Broadway, Suite 2950, New York, NY 10007

SCHADRAC LAGUERRE  
2826030-DCA

NY SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

Attorney: SCHMELKIN ASSOCIATES, P.C. PH: (212) 227-8865  
Address: 30 VESEY STREET NEW YORK, NEW YORK 10007

RECEIVED NYSC Job #216974D019

DANIEL NEAL,

Index Number: 523414/18

vs

*Plaintiff*

THE CITY OF NEW YORK, ETAL.,

*Defendant*

Date Filed: 11/20/2018

Client's File No.:

Court Date:

STATE OF NEW YORK, COUNTY OF NEW YORK, SS.:  
MARWAN M. ELGIZAWY, being sworn says:

**AFFIDAVIT OF SERVICE**

Deponent is not a party herein; is over the age of 18 years and resides in the State of New York.

On 1/16/2019, at 9:53 AM at: 3700 SURF AVENUE, BROOKLYN, NY 11223 Deponent served the within Summons and Verified Complaint

On: DARRIEN PHILLIPS C/O SEAGATE POLICE DEPT., therein named.

- #1 INDIVIDUAL  
By delivering a true copy of each to said recipient personally; Deponent knew the person so served to be the person described in as said recipient therein.
- #2 SUITABLE AGE PERSON  
By delivering thereat a true copy of each to Sgt. Manney (Co-Worker) a person of suitable age and discretion. Said premises is recipient's:  actual place of business / employment  dwelling house (usual place of abode) within the state.
- #3 AFFIXING TO DOOR  
By affixing a true copy of each to the door of said premises which is defendants  
 actual place of business / employment  dwelling house (usual place of abode) within the state. Deponent was unable with due diligence to find defendant or person of suitable age and discretion thereat having called there
- #4 Corporation or Partnership or Trust or LLC  
By delivering thereat a true copy of each to personally. Deponent knew said corporation/partnership/trust/LLC so served to be the corporation/partnership/trust/LLC described in said aforementioned document as said defendant and knew said individual to be thereof.

- #5 MAILING  
On 01/18/2019, deponent enclosed a copy of same in a postpaid envelope properly addressed to defendant at defendant's last known  Actual Place of Residence  Actual Place of Business, 3700 SURF AVENUE, BROOKLYN, NY 11223 and deposited the envelope in an official depository, personally or via agency, under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "personal and confidential" and did not indicate on the outside, thereof by return address or otherwise that the communication was from an attorney or concerned an action against the defendant.

#6 DESCRIPTION  
Sex: Male      Color of skin: White      Color of hair: Gray      Glasses:  
Age: 51-65      Height: 5ft 9in - 6ft 0in      Weight: 161-200 Lbs.      Other Features:

- #7 MILITARY SERVICE  
I asked the person spoken to whether defendant was in active military service of the United States or the State of New York in any capacity whatever and received a negative reply. The source of my information and the grounds of my belief are the conversations and observations above narrated.

- #8 WITNESS FEES  
Subpoena Fee Tendered in the amount of
- #9 OTHER

Sworn to before me on 01/18/2019



JAY BRODSKY

Notary Public State of New York

No. 31-4683271

Qualified in New York County

Commission Expires Feb. 2, 2019

ABC Process Serving Bureau Inc., 225 Broadway, Suite 2950, New York, NY 10007



MARWAN M. ELGIZAWY  
2076592-DCA